



## Olmstead Decision

CHILDREN & FAMILIES COMMITTEE  
November 15, 2013  
Exhibit 10

### Assuring Access to Community Living for the Disabled

On June 22, 1999, the U.S. Supreme Court affirmed the policy by ruling in *Olmstead v. L.C.* that under the Americans With Disabilities Act (ADA) **unjustifiable institutionalization of a person with a disability who, with proper support, can live in the community is discrimination.** In its ruling, the Court said that institutionalization severely limits the person's ability to interact with family and friends, to work and to make a life for him or herself.

The *Olmstead* case was brought by two Georgia women whose disabilities include mental retardation and mental illness. At the time the suit was filed, both plaintiffs were receiving mental health services in state-run institutions, despite the fact that their treatment professionals believed they could be appropriately served in a community-based setting.

In accordance with that Court ruling, the U.S. Department of Health and Human Services (HHS) issued guidance to state Medicaid directors on how to make state programs responsive to the desires of disabled persons to live in appropriate community-based settings. The Administration's goal is to integrate people with disabilities into the social mainstream with equal opportunities and the chance to make choices.

### **The Olmstead Decision**

The Court based its ruling in *Olmstead* on sections of the ADA and federal regulations that require states to administer their services, programs and activities **"in the most integrated setting appropriate to the needs of qualified individuals with disabilities."**

Under the Court's ruling, certain principles have emerged:

- unjustified institutionalization of people with disabilities is discrimination and violates the ADA;
- states are required to provide community-based services for persons with disabilities otherwise entitled to institutional services when the state's treatment professionals reasonably determine that community placement is appropriate; the person does not oppose such placement; and the placement can reasonably be accommodated, taking into account resources available to the state and the needs of others receiving state-supported disability services;
- a person cannot be denied community services just to keep an institution at its full capacity; and,
- there is no requirement under the ADA that community-based services be imposed on people with disabilities who do not desire it.

The Court also said that states are obliged to "make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity." Meeting the fundamental alteration test takes into account three factors: the cost of providing services in the most integrated setting; the resources available to the state; and how the provision of services affects the ability of the state to meet the needs of others with disabilities.